

S.B. 1622 (Sims) Relating to the creation of the County Court at Law No. 3 of Bell County. (31-0) (31-0)

C.S.S.B. 1624 (Gallegos) Relating to the legal defense of certain county officials or employees. (31-0) (31-0)

S.B. 1652 (Zaffirini) Relating to the creation of a statutory county court in Bee County. (31-0) (31-0)

**BILL AND RESOLUTION REMOVED FROM
LOCAL AND UNCONTESTED BILLS CALENDAR**

<u>Number</u>	<u>Senators Removing</u>
S.C.R. 125	Harris
S.B. 1338	Brown, Moncrief

**CONCLUSION OF SESSION FOR
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Truan, the Senate at 7:54 a.m. adjourned until 9:30 a.m. today.

SIXTY-FOURTH DAY

(Thursday, May 4, 1995)

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend James W. Nutter, Palmer Memorial Episcopal Church, Houston, offered the invocation as follows:

Gracious and heavenly Father, we give You thanks for this day, this opportunity to serve You, and for this great state and mighty nation in which we are fortunate enough to live. We pray for Your guidance and inspiration to fill this place and all who work here. May Your will be manifest in their actions and Your pleasure in

their words. May You give us compassion and courage, wisdom and patience, kindness and conviction. Help all those who are gathered here to rise above partisan struggles which can distract us from the truth and which can destroy all good works. We pray that You would make us faithful stewards of the talents You have showered upon us, remembering always that one day each of us will give an account of the work and responsibilities You have entrusted to our care.

In all the work of this body may justice roll down like water and righteousness like an ever-flowing stream. May charity outstrip strife, understanding overcome enmity, goodness eclipse discord, and clarity outshine confusion. In all things may these Your servants walk humbly with You and with the One we call the Prince of Peace, Lord of Lords, and King of Kings, Your son, Jesus Christ. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 840

On motion of Senator Brown and by unanimous consent, Senator West will be shown as Co-author of **S.B. 840**.

CO-AUTHOR OF SENATE BILL 977

On motion of Senator Sims and by unanimous consent, Senator Ratliff will be shown as Co-author of **S.B. 977**.

PERMISSION TO INTRODUCE BILLS

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bills:

S.B. 1701

S.B. 1702

S.B. 1703

MESSAGE FROM THE HOUSE

House Chamber

May 4, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 529, Relating to remedies for unauthorized use of certain Olympic symbols.

S.B. 548, Relating to the regulation of podiatry.

S.B. 688, Relating to the use of reclaimed asphalt pavement.

S.B. 1060, Relating to the assessment of certain fees or costs by a justice, municipal, or county court.

S.B. 1196, Relating to the boll weevil eradication program. (As amended)

H.B. 253, Relating to requiring that parole officers receive information on new parolees within 14 days after release.

H.B. 336, Relating to proceedings to prove certain informal marriages.

H.B. 369, Relating to the operation and funding of small employer health benefit plans.

H.B. 384, Relating to service creditable in and eligibility for service retirement from the Employees Retirement System of Texas.

H.B. 398, Relating to the temporary exemption of certain high-cost gas from gas production tax.

H.B. 418, Relating to protection of the family; providing a penalty.

H.B. 546, Relating to the exclusion of unserved property from certain water conservation and reclamation districts.

H.B. 635, Relating to territory contained within the Jefferson County Water Control and Improvement District No. 10.

H.B. 740, Relating to the sale by certain home-rule municipalities of land sold pursuant to foreclosure of an ad valorem tax lien.

H.B. 741, Relating to the liability of certain municipalities for a claim arising from land acquired at a sale following the foreclosure of a lien held by the municipality.

H.B. 796, Relating to the regulation of air conditioning and refrigeration contractors; providing penalties.

H.B. 809, Relating to the purposes for which funds received by local crime stoppers programs may be used, including the installation of signs on the right-of-way of public highways.

H.B. 955, Relating to charges for sales of motor vehicle fuel involving certain means of payment; providing a criminal penalty.

H.B. 1013, Relating to the issuance of obligations by the Texas Public Finance Authority.

H.B. 1259, Relating to security obligations of a licensed seller of checks.

H.B. 1275, Relating to apprehension specialists of the Texas Youth Commission as peace officers.

H.B. 1320, Relating to unissued general obligation and revenue bonds of the state.

H.B. 1419, Relating to certificates and permits issued by the Alcoholic Beverage Commission and to regulation of private club permittees by certain municipalities.

H.B. 1441, Relating to the financing of alternative fuels projects by the Texas Public Finance Authority on behalf of state agencies and certain political subdivisions of the state.

H.B. 1479, Relating to tuition and fee exemptions at public institutions of higher education for certain students.

H.B. 1495, Relating to the right of certain persons to obtain information concerning a hearing for court-ordered mental health services.

H.B. 1536, Relating to the beneficial use of material dredged from the Gulf Intracoastal Waterway.

H.B. 1589, Relating to the provision of workers' compensation benefits for certain state employees and to the creation, powers, and duties of the State Office of Risk Management.

H.B. 1608, Relating to the regulation of the sale of checks.

H.B. 1644, Relating to the improper disposal of medical waste; providing criminal penalties.

H.B. 1661, Relating to the adoption of the Texas Uniform Unincorporated Nonprofit Association Act.

H.B. 1719, Relating to altering the business form of the holder of a permit allowing the sale or service of alcoholic beverages for on-premise consumption.

H.B. 1753, Relating to the punishment of the offense of assault committed against a public servant.

H.B. 1765, Relating to the regulation of the fitting and dispensing of hearing instruments.

H.B. 1785, Relating to certain Parks and Wildlife Department admissions fees, license requirements, and exemptions.

H.B. 1899, Relating to a deferred retirement option plan for members of retirement systems for police officers in certain municipalities.

H.B. 1900, Relating to routine purchases and contracts made by a port commission.

H.B. 2053, Relating to the identification of a motor vehicle that is issued exempt license plates.

H.B. 2065, Relating to enterprise zones.

H.B. 2151, Relating to the issuance of titles to certain motor vehicles; providing a penalty.

H.B. 2176, Relating to the award of highway improvement contracts.

H.B. 2119, Relating to intermediate sanction facilities and the disposition of delinquent children.

H.B. 2216, Relating to the issuance of licenses and stamps by the Parks and Wildlife Department; providing penalties.

H.B. 2268, Relating to the adoption of the Texas Uniform Transfers to Minors Act.

H.B. 2309, Relating to the basic skills assessment of students at institutions of higher education and to programs for students in need of enrichment in those basic skills.

H.B. 2318, Relating to work programs for certain persons committed to the Texas Youth Commission and to tax credits and abatements for businesses participating in the programs.

H.B. 2365, Relating to county licenses for business establishments on public beaches.

H.B. 2390, Relating to the abolishment of the Texas High-Speed Rail Authority.

H.B. 2459, Relating to public funds investment.

H.B. 2462, Relating to the allocation of certain funds to certain institutions of higher education.

H.B. 2468, Relating to the creation of an advisory committee for the Department of Protective and Regulatory Services on programs for promoting the adoption of and provision of services to adoptable African-American children.

H.B. 2525, Relating to the authority of certain hospital authorities to issue short-term obligations.

H.B. 2587, Relating to the operation of certain aboveground and underground storage tanks and the regulation of underground storage tank installers; providing penalties.

H.B. 2599, Relating to the licensing and regulation of certain persons dealing in salvage vehicles and parts; providing criminal penalties.

H.B. 2669, Relating to the regulation by the Texas State Board of Medical Examiners of certain physicians located in other jurisdictions who perform acts constituting the practice of medicine in this state.

H.B. 2805, Relating to the appointment of a tenant member to the governing body of a municipal housing authority.

H.B. 2839, Relating to the borrowing powers of drainage districts.

H.B. 2929, Relating to the safe operation of bicycles on roadways and to the consequences of certain offenses involving the operation of bicycles on roadways; creating an offense.

H.B. 3032, Relating to the regulation of petroleum storage tanks.

H.B. 3211, Relating to the qualifications and terms of the port commissioners of the Port of Corpus Christi Authority of Nueces County.

H.B. 129, Relating to medical savings accounts; providing a penalty.

H.B. 594, Relating to the punishment and sentencing of a defendant convicted of a repeat offense of sexual assault.

H.B. 843, Relating to the regulation of petroleum storage tanks.

H.B. 869, Relating to coordinated delivery of health and human services programs.

H.B. 1345, Relating to tests for human immunodeficiency virus infection of pregnant women or on delivery of a child.

H.B. 2197, Relating to the payment in installments of ad valorem taxes on certain property located in a disaster area.

H.B. 713, Relating to the regulation of private investigators and private security agencies; creating a criminal penalty.

H.B. 1966, Relating to the use of optical imaging and other electronic means for creating records in municipal courts.

H.B. 2443, Relating to the liability of parties to a contract to improve real property.

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

S.B. 1701 by Shapiro, Nelson State Affairs
Relating to the designation of State Highway 190 in Dallas, Collin, and Denton counties as the President George Bush Highway.

S.B. 1702 by Ratliff Economic Development
Relating to certain requirements for eligibility for unemployment compensation benefits and to employer chargebacks for those benefits.

S.B. 1703 by Armbrister Health and Human Services
Relating to the licensing and regulation of the practice of art therapy.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

H.C.R. 127 to Committee on State Affairs.

H.C.R. 145 to Committee on Natural Resources.

H.B. 1271 to Committee on Administration.

H.B. 2021 to Committee on Health and Human Services.

H.B. 3072 to Committee on Natural Resources.

BILLS AND RESOLUTION SIGNED

The President announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

S.C.R. 16

S.B. 279

S.B. 401

S.B. 403

S.B. 897

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas

May 4, 1995

TO THE SENATE OF THE SEVENTY-FOURTH LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE TEXAS STATE BOARD OF MEDICAL
EXAMINERS for terms to expire April 13, 2001:

VERNON L. RYAN, M.D.

P.O. Box 5201

San Angelo, Texas 76902

Dr. Ryan will be replacing Dr. Regina Kyles of Houston, whose term expired.

PAUL G. MEYER, M.D.

5703 Geneva

Lubbock, Texas 79413

Dr. Meyer will be replacing Dr. Louis M. Rios of Edinburg, whose term expired.

MARGARET L. FORD, Ed.D.

3242 Holly Hall Drive

Houston, Texas 77054

Dr. Ford will be replacing Terri L. Stewart of Galveston, whose term expired.

WILLIAM H. FLEMING III, M.D.

5695 Shady River Road

Houston, Texas 77056-1014

Dr. Fleming is being reappointed.

PENNY ANGELO

3106 Stanolind

Midland, Texas 79705

Mrs. Angelo is being reappointed.

THOMAS D. KIRKSEY, M.D.
2514 Tanglewood Trail
Austin, Texas 78703

Dr. Kirksey will be replacing Dr. Gilberto Aguirre of San Antonio, whose term expired.

TO BE A MEMBER OF THE BOARD OF PROTECTIVE AND
REGULATORY SERVICES for a term to expire February 1, 1997:

CATHERINE CLARK MOSBACHER
6421 Vanderbilt
Houston, Texas 77005

Mrs. Mosbacher will be filling the unexpired term of Gabrielle McDonald of Austin, who resigned.

TO BE MEMBERS OF THE BOARD OF PROTECTIVE AND
REGULATORY SERVICES for terms to expire February 1, 2001:

MAURINE DICKEY
3412 Beverly Drive
Dallas, Texas 75205

Mrs. Dickey will be replacing Maconda Brown O'Connor of Houston, whose term expired.

JON MARTIN BRADLEY
9606 Hillview Drive
Dallas, Texas 75231

Mr. Bradley will be replacing Frank Davila II of San Antonio, whose term expired.

TO BE MEMBERS OF THE GOVERNING BOARD OF THE
INTERNATIONAL TRADE COMMISSION for terms to expire
February 1, 2001:

ROBERT B. REEVES
P.O. Box 1216
Center, Texas 75935

Mr. Reeves will be replacing Curtis George Goetz, Jr., of San Augustine, whose term expired.

ROBERT W. HSUEH
7004 Quartermile Lane
Dallas, Texas 75248

Mr. Hsueh will be replacing Israel J. Galvan of Houston, whose term expired.

TO BE A MEMBER OF THE TEXAS-MEXICO AUTHORITY ADVISORY
BOARD for a term to expire February 1, 2001:

MARK LANGDALE
6037 Northwood
Dallas, Texas 75225

Mr. Langdale will be replacing J. Jorge Verduzco of Laredo, whose term expired.

TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE BRAZOS
RIVER AUTHORITY for terms to expire February 1, 2001:

JUDITH VERNON

Route 2, Box 55B

Evant, Texas 76525

Mrs. Vernon will be replacing Jesse Lee Hibbetts, Jr., of Lake Jackson, whose term expired.

RUTH SCHIERMEYER

3006 24th Street

Lubbock, Texas 79410

Ms. Schiermeyer is being reappointed.

LINDA KAY LYLE, CPA

507 Kirchwood Drive

Plainview, Texas 79072

Mrs. Lyle will be replacing Robert Pace of Wichita Falls, whose term expired.

C. J. "JACK" FARRAR

JF Ranch, Route Two, Box C4

Hico, Texas 76457

Mr. Farrar is being reappointed.

LYNN ELLIOTT

1010 Lometa Lane

Navasota, Texas 77868

Mr. Elliott will be replacing Art King of Bryan, whose term expired.

DEBORAH H. BELL

1781 Lakeshore

Abilene, Texas 79602

Mrs. Bell will be replacing Robert Hebert of Sugar Land, whose term expired.

RAMIRO A. GALINDO

3015 Hummingbird Circle

Bryan, Texas 77807

Mr. Galindo is being reappointed.

TO BE A MEMBER OF THE STATE BOARD OF NURSE EXAMINERS
for a term to expire January 31, 2001:

IRIS SNELL, R.N.

9611 Broken Bow Road

Dallas, Texas 75238

Mrs. Snell will be replacing Sara Jane Keele of Houston, whose term expired.

TO BE A MEMBER OF THE TEXAS GUARANTEED STUDENT LOAN
CORPORATION BOARD OF DIRECTORS for a term to expire
January 31, 1999:

JERRY DON MILLER, Ph.D.

29 Village

Canyon, Texas 79015

Dr. Miller will be filling the unexpired term of Yvette Clark of Nacogdoches, who resigned.

TO BE JUSTICE OF THE FOURTEENTH COURT OF APPEALS until the next General Election and until her successor shall be duly elected and qualified:

THE HONORABLE HARRIET O'NIELL
5523 Briar Drive
Houston, Texas 77056

Judge O'Niell will be replacing Paul C. Murphy of Houston, who was elevated to the position of Chief Justice.

TO BE A MEMBER OF THE TEXAS LOTTERY COMMISSION for a term to expire February 1, 2001:

HARRIET ELLAN MIERS
5115 Royal Crest Drive
Dallas, Texas 75229

Ms. Miers will be replacing Jan Hart of Dallas, whose term expired.

TO BE A MEMBER OF THE COMMISSION ON UNIFORM STATE LAWS for a term to expire September 30, 2000:

HARRY L. TINDALL
2111 Briarmead
Houston, Texas 77057-2933

Mr. Tindall will be replacing Bradley J. B. Toben of Waco, whose term expired.

Respectfully submitted,

/s/George W. Bush
Governor of Texas

(Senator Truan in Chair)

CAPITOL PHYSICIAN

Senator Madla was recognized and presented Dr. Raymond Garcia of Del Rio as the "Doctor for the Day."

The Senate welcomed Dr. Garcia and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE BILL 1098 WITH HOUSE AMENDMENT

Senator Zaffirini called **S.B. 1098** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **S.B. 1098** as follows:

1. On page 1, strike line 6 and substitute "a minor if a parent, managing conservator,".
2. On page 1, line 8, insert the words "is not available" after the word "minor".

3. On page 2, after line 21, add a new Subsection (d) to read as follows:

"(d) A person who consents under this section shall provide the health care provider with sufficient and accurate health history and information about the minor for whom the consent is given and, if necessary, sufficient and accurate health history and information about the minor's family to enable the person who may consent to the immunization of the minor and the health care provider to determine adequately the risks and benefits inherent in the proposed immunization and determine whether immunization is advisable."

4. On page 3, line 11, add the word "immunization" between the words "the" and "counseling".

5. On page 4, after line 2, add a new Section 4 to read as follows:

SECTION 4. Section 35.02(a), Family Code, is amended to read as follows:

(a) Consent to medical treatment under Sections [Section] 35.01 and 35.011 of this code shall be in writing, signed by the person giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment.

6. Renumber remaining Sections.

The amendment was read.

On motion of Senator Zaffirini and by unanimous consent, the Senate concurred in the House amendment to **S.B. 1098** by a viva voce vote.

SENATE BILL 753 WITH HOUSE AMENDMENT

Senator Shapiro called **S.B. 753** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **S.B. 753** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the creation of municipal courts of record in Irving.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 30, Government Code, is amended by adding Subchapter AA to read as follows:

SUBCHAPTER AA. IRVING

Sec. 30.0241. APPLICATION. This subchapter applies to the City of Irving.

Sec. 30.0242. CREATION. (a) The governing body of the city may by ordinance create a municipal court of record if it determines that the formation of the court is necessary to provide a more efficient disposition of cases arising in the city. The governing body may by ordinance

determine the number of municipal courts of record that are required to dispose of the cases and may establish as many as are needed. The ordinance establishing the courts shall give each court a numerical designation, beginning with "Municipal Court of Record No. 1."

(b) A municipal court of record may not exist concurrently with municipal courts that are not courts of record in the city.

(c) A municipal court of record has no terms and may sit at any time for the transaction of the business of the court.

Sec. 30.0243. APPLICATION OF OTHER LAWS. The general law regarding municipal courts, the general law regarding justice courts on matters not covered by the law regarding municipal courts, and any charter provision or ordinance of the city relating to the municipal court apply to a municipal court of record unless the law, charter provision, or ordinance is in conflict or inconsistent with this subchapter.

Sec. 30.0244. JUDGE. (a) A municipal court of record is presided over by a municipal judge.

(b) If there is more than one municipal judge in the city, the governing body of the city shall appoint one of the judges to be the chief judge.

(c) A municipal judge, including the chief judge, is appointed by the governing body of the city for a term of two years.

(d) A municipal judge must be a licensed attorney in good standing in this state and must have two or more years of experience in the practice of law in this state. The judge must be a citizen of the United States and of this state. The judge shall devote as much time to the office as it requires.

(e) If there is more than one municipal court of record in the city, the judges may exchange benches and may sit and act for each other in any proceeding pending in the courts. An act performed by any of the judges is binding on all parties to the proceeding.

(f) A municipal judge is entitled to a salary from the city, the amount of which is determined by the governing body of the city. The amount of a municipal judge's salary may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

(g) A municipal judge may be removed from office by the governing body of the city at any time.

(h) A municipal judge shall take judicial notice of state law, city ordinances, and the corporate limits of the city in a case tried before a municipal court of record. A municipal judge may grant writs of mandamus, injunction, and attachment and other writs necessary to the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court.

(i) The governing body may appoint one or more qualified persons to be available to serve for a municipal judge who is temporarily absent due to illness, family death, or continuing legal or judicial education programs or for any other reason. The chief judge, or the municipal judge if there is no chief judge, shall select one of the persons appointed by the

governing body to serve during an absence. An alternate judge, while serving, has all the powers and shall discharge all the duties of a municipal judge. An alternate judge must have the same qualifications as a municipal judge.

Sec. 30.0245. CLERK; OTHER PERSONNEL. The city manager of the city may appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk or the clerk's deputies or assistants may keep the records of the municipal courts of record, issue process, and generally perform the duties for the courts that a clerk of the county court exercising criminal jurisdiction is required by law to perform for that court. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

Sec. 30.0246. COURT REPORTER. (a) The city shall provide a court reporter for the purpose of preserving a record in cases tried before the municipal court of record. The clerk of the court shall appoint the court reporter, who must meet the qualifications provided by law for official court reporters. The reporter shall be compensated by the city in the manner determined by the governing body of the city.

(b) The court reporter may use written notes, transcribing equipment, video or audio recording equipment, or a combination of those methods to record the proceedings of the court. The court reporter shall keep the record for the 20-day period beginning the date after the last day of the court proceeding, trial, or denial of motion for new trial, whichever occurs last.

(c) The court reporter is not required to record testimony in a case unless the judge or one of the parties requests a record. A party's request for a record must be in writing and be filed with the court before trial. The judge shall tell the defendant that unless the trial is recorded, the defendant waives the right to appeal.

(d) The court clerk may provide that, in lieu of the city's providing a court reporter at trial, proceedings in a municipal court of record may be recorded by a good quality electronic recording device. If the court clerk authorizes the electronic recording, the court reporter need not be present at trial to certify the statement of facts. The recording shall be kept and stored for the 20-day period beginning the day after the last day of the proceeding, trial, or denial of motion for new trial, whichever occurs last. The proceedings that are appealed shall be transcribed from the recording by an official court reporter.

Sec. 30.0247. PROSECUTIONS BY CITY ATTORNEY. All prosecutions in the municipal court of record must be conducted by the city attorney, an assistant or deputy city attorney, or an attorney designated by the city attorney as a special prosecutor.

Sec. 30.0248. JURY. (a) A person who is brought before a municipal court of record and who is charged with an offense is entitled to be tried by a jury of six persons unless that right is waived according to law. The jury shall assess the fine in a case in which it finds the defendant guilty unless the defendant or the state requests the judge to assess a fine.

(b) A juror who serves in the municipal courts of record must meet the qualifications provided by Chapter 62.

Sec. 30.0249. APPEAL. (a) A defendant has the right of appeal from a judgment of conviction in a municipal court of record as provided by this subchapter. The county criminal courts of Dallas County have jurisdiction over an appeal.

(b) The appellate court shall determine each appeal from a municipal court of record conviction on the basis of the errors that are set forth in the defendant's motion for new trial and that are presented in the transcript and statement of facts prepared from the proceedings leading to the conviction. An appeal from the municipal court of record may not be by trial de novo.

(c) To perfect an appeal, the defendant must file with the municipal court clerk a written motion for new trial not later than the 10th day after the date on which judgment is rendered. The motion must set forth the points of error of which the defendant complains. The motion or an amended motion may be amended by leave of court at any time before action on the motion is taken, but not later than the 20th day after the date on which the original or amended motion is filed. The court may for good cause extend the time for filing or amending but the extension may not exceed 90 days from the original filing deadline. If the court does not act on the motion before the expiration of the 30 days allowed for determination of the motion, the original or amended motion is overruled by operation of law.

(d) To perfect an appeal, the defendant must also give notice of the appeal. If the defendant requests a hearing on the motion for new trial, the defendant may give the notice of appeal orally in open court on the overruling of the motion. If there is no hearing, the defendant must give written notice of appeal and must file the notice with the court not later than the 10th day after the date on which the motion is overruled. The court may for good cause extend that time period, but the extension may not exceed 90 days from the original filing deadline.

(e) The court reporter shall set a reasonable transcript preparation fee. The court clerk shall note the payment of the fee on the docket of the court.

Sec. 30.0250. APPEAL BOND. (a) If the defendant is not in custody, the defendant may not take an appeal until the defendant files an appeal bond with the municipal court of record. The bond must be approved by the court and must be filed not later than the 10th day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond.

(b) The appeal bond must be in the amount of \$50 or double the amount of the fine and costs adjudged against the defendant, whichever is greater. The bond must state that the defendant was convicted in the case and has appealed, must be payable to the state for the use and benefit of the city, and must be conditioned on the defendant's appearance in the court to which the appeal is taken.

Sec. 30.0251. RECORD ON APPEAL. The record on appeal consists of a transcript and, if necessary to the appeal, a statement of facts. The court reporter shall prepare the record from the reporter's record or mechanical or videotape recordings of the proceedings.

Sec. 30.0252. TRANSCRIPT. (a) On the written request of the defendant or the defendant's attorney, the municipal court clerk shall prepare under the clerk's hand and seal a transcript of the municipal court of record proceedings. The transcript must include copies of:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict in a jury trial;
- (4) the judgment;
- (5) the motion for new trial;
- (6) the notice of appeal;
- (7) written motions and pleas;
- (8) written orders of the court;
- (9) any bills of exception filed with the court;
- (10) the appeal bond; and
- (11) exhibits admitted into evidence.

(b) The clerk may include in the transcript additional portions of the proceedings in the court prepared from mechanical or videotape recordings.

Sec. 30.0253. BILLS OF EXCEPTION. Either party may include bills of exception in the transcript subject to the applicable provisions of the Code of Criminal Procedure. The bills of exception must be filed with the municipal court clerk not later than the 60th day after the date on which the notice of appeal is given or filed.

Sec. 30.0254. STATEMENTS OF FACTS. (a) A statement of facts included in the record on appeal must contain:

(1) a transcript of all or part of the municipal court of record proceedings that are shown by the notes of the court reporter to have occurred before, during, or after the trial, if the transcript is requested by the defendant;

(2) a brief statement of the facts of the case proven at trial as agreed to by the defendant and the prosecuting attorney;

(3) a partial transcript and the agreed statement of the facts of the case; or

(4) a transcript of all or part of the municipal court of record proceedings in the case that is prepared from mechanical or videotape recordings of the proceedings.

(b) The defendant shall pay for the transcriptions unless the court finds, after hearing in response to an affidavit by the defendant, that the defendant is unable to pay or give security for the transcriptions. On certification by the court that the transcriber has rendered the service without charge to the defendant, the transcriber shall be paid for the services by the city. If the case is reversed on appeal, the court shall promptly refund the cost to the defendant.

Sec. 30.0255. COMPLETION, APPROVAL, AND TRANSFER OF RECORD. (a) Not later than the 60th day after the date on which the

notice of appeal is given or filed, the appellant must file with the municipal court clerk:

- (1) the statement of facts;
- (2) a written description of material to be included in the transcript in addition to the required material; and
- (3) any material to be included in the transcript that is not in the custody of the clerk.

(b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, approval, and notification in the court of appeals.

(c) After the court approves the record, the clerk shall promptly send it to the appellate court clerk for filing. The appellate court clerk shall notify the defendant and the prosecuting attorney that the record has been filed.

(d) At the time of requesting the clerk to prepare a record on appeal from the transcript and statement of facts, the defendant must pay to the clerk a record preparation fee of \$25. The court shall waive the record preparation fee if the court finds after a hearing that the defendant is unable to pay the fee. The defendant must file and personally sign an affidavit that the defendant is unable to pay. The defendant must file the affidavit at the time the notice of appeal is given or filed. The affidavit of inability to pay must contain reasonable information as the court may require by rules. The prosecutor may oppose, under time limits and conditions set by the rules of the municipal court of record, the affidavit of inability to pay the fee and may call the appellant as a witness on that issue. If the case is reversed upon appeal, the clerk shall refund the record preparation fee to the defendant.

(e) The municipal judge may for good cause extend the time for filing the record.

Sec. 30.0256. BRIEF ON APPEAL. (a) A defendant's brief on appeal from a municipal court of record must present points of error in the manner required by law for a brief on appeal to the court of appeals.

(b) The defendant must file the brief with the appellate court clerk not later than the 15th day after the date on which the transcript and statement of facts are filed with that clerk. The defendant or the defendant's attorney must certify that the brief has been properly mailed to the prosecuting attorney.

(c) The prosecuting attorney must file the appellee's brief, if any, with the appellate court clerk not later than the 15th day after the date on which the defendant's brief is filed.

(d) On filing, each party shall deliver a copy of the brief to the opposing party and to the municipal judge.

(e) The appellate court may in its discretion extend the times for filing briefs.

Sec. 30.0257. COURT RULES. (a) Except as modified by this subchapter, the Code of Criminal Procedure governs the trial of cases before the municipal court of record. The court may make and enforce all

rules of practice and procedure necessary to expedite the trial of cases before the court that are not inconsistent with general law.

(b) The appellate courts may make and enforce all rules of practice and procedure that are not inconsistent with general law and that are necessary to expedite the dispatch of appeals from the municipal court of record.

Sec. 30.0258. DISPOSITION ON APPEAL. (a) According to law and the nature of the case, the appellate court may:

- (1) affirm the judgment of the municipal court of record;
- (2) reverse and remand for a new trial;
- (3) reverse and dismiss the case; or
- (4) reform and correct the judgment.

(b) Unless the matter was made an issue in the trial court or it affirmatively appears to the contrary from the transcript or the statement of facts, the appellate court shall presume that:

- (1) venue was proven in the trial court;
- (2) the jury, if any, was properly impaneled and sworn;
- (3) the defendant was arraigned and pleaded to the complaint; and
- (4) the municipal judge certified the charge before it was read to the jury.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. The court shall set forth the reasons for its decision. The appellate court clerk shall mail copies of the decision to the parties and to the municipal judge as soon as the decision is rendered.

Sec. 30.0259. CERTIFICATE OF APPELLATE PROCEEDINGS. When the judgment of the appellate court becomes final, the clerk of that court shall certify the proceedings and the judgment and shall mail the certificate to the municipal court. The court clerk shall file the certificate with the papers in the case and note the certificate on the case docket. If the municipal court of record judgment is affirmed, further action to enforce the judgment is not necessary except to:

- (1) forfeit the bond of the defendant;
- (2) issue a writ of capias for the defendant; or
- (3) issue an execution against the defendant's property.

Sec. 30.0260. EFFECT OF ORDER ON NEW TRIAL. If the appellate court awards a new trial to the defendant, the case stands as if a new trial had been granted by the municipal court of record.

Sec. 30.0261. APPEAL TO COURT OF APPEALS. The defendant has the right to appeal to the court of appeals if the fine assessed against the defendant exceeds \$100 and if the judgment is affirmed by the appellate court. The provisions of the Code of Criminal Procedure relating to direct appeals from a county or a district court to the court of appeals apply to the appeal, except that:

(1) the record and briefs on appeal in the appellate court constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the court of appeals.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Shapiro moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on S.B. 753 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Shapiro, Chair; Harris, Nixon, Nelson, and Patterson.

SENATE BILL 12 WITH HOUSE AMENDMENTS

Senator Montford called S.B. 12 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend S.B. 12 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to administrative hearings for the Texas Natural Resource Conservation Commission provided by the State Office of Administrative Hearings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 2003, Government Code, is amended by adding Sections 2003.047 and 2003.048 to read as follows:

Sec. 2003.047. NATURAL RESOURCE CONSERVATION DIVISION.

(a) The office shall establish a natural resource conservation division to perform the contested case hearings for the Texas Natural Resource Conservation Commission.

(b) The division shall conduct hearings relating to contested cases before the commission, other than a hearing conducted by one or more

commissioners. The commission by rule may delegate to the division the responsibility to hear any other matter before the commission if consistent with the responsibilities of the division.

(c) Only an administrative law judge in the division may conduct a hearing on behalf of the commission. An administrative law judge in the division may conduct hearings for other state agencies as time allows. The office may transfer an administrative law judge to the division on a permanent or temporary basis and may contract with qualified individuals to serve as temporary administrative law judges as necessary.

(d) To be eligible to preside at a hearing on behalf of the commission, an administrative law judge, regardless of temporary or permanent status, must be licensed to practice law in this state and have the expertise necessary to conduct hearings regarding technical or other specialized subjects that may come before the commission.

(e) When the office receives jurisdiction of a proceeding, the commission shall provide to the administrative law judge a list of issues or areas that must be addressed. In addition, the commission may identify and provide to the administrative law judge at any time additional issues or areas that must be addressed.

(f) The office and the commission jointly shall adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law. The rules must address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue. Each agency shall publish the jointly adopted rules.

(g) An administrative law judge hearing a case on behalf of the commission, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (h) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the commission.

(h) A sanction imposed under Subsection (g) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representatives;

(3) holding that designated facts be considered admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; and

(6) striking pleadings or testimony, or both, in whole or in part.

Sec. 2003.048. NATURAL RESOURCE CONSERVATION COMMISSION HEARINGS FEE. The office shall charge the Texas Natural Resource Conservation Commission a fixed annual fee rather than an hourly rate for services rendered by the office to the commission. The office and the Texas Natural Resource Conservation Commission shall negotiate the amount of the fixed fee biennially, subject to the approval of the governor, to coincide with the commission's legislative appropriations request.

SECTION 2. Subchapter H, Chapter 5, Water Code, is amended to read as follows:

SUBCHAPTER H. DELEGATION OF HEARINGS

[OFFICE OF HEARING EXAMINERS]

Sec. 5.311. [CREATION OF OFFICE. (a) The commission shall create an office of hearing examiners to assist the commission in carrying out its powers and duties under this code.

[(b) The office of hearing examiners is independent of the executive director and the divisions of the commission and is under the exclusive control of the commission.

[Sec. 5.312. ORGANIZATION OF OFFICE OF HEARING EXAMINERS. (a) The office of hearing examiners shall be under the direction of the chief hearing examiner.

[(b) The chief hearing examiner and all assistant hearing examiners employed in the office of hearing examiners shall be attorneys licensed to practice law in this state and shall be employed by the commission.

[Sec. 5.313.] DELEGATION OF RESPONSIBILITY. (a) The commission may delegate to an administrative law judge of the State Office of Administrative Hearings [a hearing examiner] the responsibility to hear any matter before the commission.

(b) The administrative law judge [A hearing examiner shall prepare for and hold any hearing as directed by the commission and] shall report to the commission on the hearing in the manner provided by law.

Sec. 5.312 [5.314]. TIME LIMIT FOR ISSUANCE OR DENIAL OF PERMITS. (a) Except as provided in Subsection (b), all permit decisions shall be made within 180 days of the receipt of the permit application or application amendment or the determination of administrative completeness, whichever is later.

(b) This section does not apply to permits issued under federally delegated or approved programs unless allowed under that program.

Sec. 5.313. HEARING EXAMINERS REFERENCED IN LAW. Any reference in law to a hearing examiner who has a duty related to a case pending before the commission means an administrative law judge of the State Office of Administrative Hearings.

SECTION 3. Subsections (a), (b), and (c), Section 26.021, Water Code, are amended to read as follows:

(a) Except for those hearings required to be held before the commission under Section 26.0191(b) of this code, the commission may authorize the chief administrative law judge of the State Office of Administrative Hearings ~~hearing examiner~~ to call and hold hearings on any subject on which the commission may hold a hearing.

(b) The commission may also authorize the chief administrative law judge ~~hearing examiner~~ to delegate to one or more administrative law judges ~~hearing examiners~~ the authority to hold any hearing the chief administrative law judge calls ~~called by him~~.

(c) At any hearing called under this section, the chief administrative law judge or the administrative law judge to whom a hearing is delegated ~~may [by the chief hearing examiner, he or the person delegated the authority by him to hold the hearing is empowered to]~~ administer oaths and receive evidence.

SECTION 4. Subsections (a), (b), and (c), Section 28.029, Water Code, are amended to read as follows:

(a) The commission may authorize the chief administrative law judge of the State Office of Administrative Hearings ~~hearing examiner~~ to call and hold hearings on any subject on which the commission may hold a hearing.

(b) The commission may also authorize the chief administrative law judge ~~hearing examiner~~ to delegate to one or more administrative law judges ~~hearing examiners~~ the authority to hold any hearing the chief administrative law judge calls ~~called by him~~.

(c) At any hearing called under this section, the chief administrative law judge or the administrative law judge to whom a hearing is delegated ~~may [by the chief hearing examiner, he or the person delegated the authority by him to hold the hearing is empowered to]~~ administer oaths and receive evidence.

SECTION 5. Subsections (a), (b), and (c), Section 31.009, Water Code, are amended to read as follows:

(a) The commission may authorize the chief administrative law judge of the State Office of Administrative Hearings ~~hearing examiner~~ to call and hold hearings on any subject on which the commission may hold a hearing.

(b) The commission may also authorize the chief administrative law judge ~~hearing examiner~~ to delegate to one or more administrative law judges ~~hearing examiners~~ the authority to hold a hearing the chief administrative law judge calls ~~called by the chief hearing examiner~~.

(c) At a hearing called under this section, the chief administrative law judge or the administrative law judge to whom a hearing is delegated ~~[by the chief hearing examiner, the chief hearing examiner or the person delegated the authority by him to hold the hearing]~~ may administer oaths and receive evidence.

SECTION 6. Subsections (a) and (b), Section 361.0831, Health and Safety Code, are amended to read as follows:

(a) Unless required for the disposition of ex parte matters authorized by law, or unless permitted by Section 2001.061, Government Code [~~17, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~], a hearings examiner [~~of the commission~~] may not communicate, directly or indirectly, with any employee of the commission [~~who is not an employee of the office of hearings examiners~~], any commissioner, or any party to a hearing conducted by the commission in connection with any issue of fact or law pertaining to a contested case in which the commission or party is involved.

(b) Except for communications allowed under Subsection (a), an employee of the commission, a commissioner, or a party to a hearing conducted by the commission may not attempt to influence the finding of facts or the application of law or rules by a hearings examiner [~~of the commission~~] except by proper evidence, pleadings, and legal argument with notice and opportunity for all parties to participate.

SECTION 7. Section 361.0832, Health and Safety Code, is amended by amending Subsection (a) and by adding Subsection (g) to read as follows:

(a) After hearing evidence and receiving legal arguments, a hearings examiner [~~of the commission~~] shall make findings of fact, conclusions of law, and any ultimate findings required by statute, all of which shall be separately stated. The hearings examiner shall make a proposal for decision to the commission and shall serve the proposal for decision on all parties. The commission shall consider and act on the proposal for decision.

(g) To the extent of a conflict between this section and Section 2001.058(e), Government Code, this section controls.

SECTION 8. As soon as practicable, the chief administrative law judge of the State Office of Administrative Hearings shall consult with the chief administrative hearing examiner of the Texas Natural Resource Conservation Commission to assist the judge in:

(1) determining the number of and requirements for administrative law judges needed to conduct Texas Natural Resource Conservation Commission hearings effectively; and

(2) making necessary administrative changes in the State Office of Administrative Hearings.

SECTION 9. (a) On September 1, 1995, all equipment, data, facilities, and other items of the office of hearing examiners of the Texas Natural Resource Conservation Commission are transferred to the State Office of Administrative Hearings.

(b) If a hearing examiner or administrative law judge employed by the office of hearing examiners of the Texas Natural Resource Conservation Commission is hearing a case pending before the commission as of the effective date of this Act and that individual is offered and accepts a position as an administrative law judge of the State Office of Administrative Hearings, the chief administrative law judge of the office shall assign the case to that individual to render a proposal for decision.

SECTION 10. (a) Except as provided in Subsection (b) of this section, this Act takes effect September 1, 1995.

(b) Section 8 of this Act takes effect immediately.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1

Amend C.S.S.B. 12 in SECTION 9 of the bill (House committee printing page 9, between lines 9 and 10) by inserting a new Subsection (c) to read as follows:

(c) In filling any administrative law judge position that is created in the natural resource conservation division of the State Office of Administrative Hearings under this Act, the chief administrative law judge of the State Office of Administrative Hearings shall consider the application of each applicant who, immediately before this Act takes effect, is employed as a hearings examiner of the Texas Natural Resource Conservation Commission before considering any other application for the position.

Floor Amendment No. 2

Amend C.S.S.B. 12 in SECTION 1 by adding a new subsection (i) to read as follows:

(i)(1) After hearing evidence and receiving legal argument, an administrative law judge shall make findings of fact and conclusions of law, and any ultimate findings required by statute, all of which shall be separately stated. The administrative law judge shall make a proposal for decision to the commission and shall serve the proposal for decision on all parties. An opportunity shall be given to each party to file exceptions to the proposal for decision and briefs related to the issues addressed in the proposal for decision. The commission shall consider and act on the proposal for decision.

(2) Except as provided in Section 361.0832, Health and Safety Code, as amended, the commission shall consider the proposal for decision prepared by the administrative law judge, the exceptions of the parties, and the briefs and argument of the parties. The commission may amend the proposal for decision, including any finding of fact, but any such amendment thereto and order shall be based solely on the record made before the administrative law judge. Any such amendment by the commission shall be accompanied by an explanation of the basis of the amendment. The commission may also refer the matter back to the administrative law judge to reconsider any findings and conclusion set forth in the proposal for decision or take additional evidence or to make additional findings of fact or conclusions of law. The commission shall serve a copy of the commission's order, including its finding of facts and conclusions of law, upon each party.

(3) The provisions of Chapter 2001, Government Code, shall continue to apply to contested case hearings for the commission to the extent not inconsistent with this section.

The amendments were read.

Senator Montford moved to concur in the House amendments to **S.B. 12**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONCLUSION OF MORNING CALL

The Presiding Officer at 9:50 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 202 ON SECOND READING

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 202, Relating to the provision of certain services provided through health maintenance organizations.

The bill was read second time.

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 202** as follows:

1. Amend page 8 by striking Subsection (k), lines 17 through 25, in its entirety and inserting new subsection (k) as follows:

(k) A health maintenance organization shall offer and make available to each enrollee, on termination of coverage, a standard continuation and conversion policy, as determined by the plan, whose benefits shall meet or exceed the minimum benefit requirements provided by 42 CFR Section 417.101.

2. Amend page 9 by striking Subsection (c), lines 2 through 9, in its entirety and inserting new subsection (c) as follows:

(c) The commissioner may adopt rules concerning the development of minimum benefit levels, not to exceed the minimum requirements provided by 42 CFR Section 417.101, for coverage offered by a health maintenance organization, including continuation, conversion, and individual coverage.

3. Amend subsection (c) page 13, line 16 by inserting after "service arrangements" and before "and" the following:
between an insurance carrier and a health maintenance organization, and to point of service

4. Amend page 9, lines 13 through 27 and page 10, lines 1 through 3 by deleting SECTION 5 and SECTION 6 in their entirety and renumber the remaining SECTIONS accordingly.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 202 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 202** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

HOUSE BILL 1689 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1689, Relating to training for members of the governing boards of public institutions of higher education.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1689 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1689** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1198 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1198, Relating to the power of a municipality to abate certain nuisances that are dangerous to the public health or safety; creating a civil penalty.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 1198** by adding a revised subsection (g) to Section 1 as follows:

(g) After the hearing, the municipality shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building[~~and if the owner does not take the ordered action within the allotted time, the municipality shall promptly mail by certified mail, return receipt requested, a copy of the order~~] and to any lienholder or mortgagee of the building. The municipality shall use [the records of the county clerk in the county in which the building is located] its best efforts to determine[if possible,] the identity and address of any owner, lienholder or mortgagee of the building through the records of the county clerk in the county in which the building is located and any other sources available to the municipality.

Amend C.S.S.B. 1198 by revising subsection 214.001(o) in Section 1 as follows:

(o) If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by Subsection (d) ~~[or], (e) or (g), the lien is a privileged lien subordinate only to tax liens [and all previously recorded bona fide mortgage liens attached to the real property to which the municipality's lien attaches].~~

The amendment was read and was adopted by a viva voce vote.

(Senator Turner in Chair)

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 1198 by adding to Section 2 of the bill, subsection (j) of Section 214.0015 of the Local Government Code after "in an amount not to exceed \$1000 a day for each violation" the following: "or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation"

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Harris asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 2.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Harris asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1198 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1198 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Harris.

The bill was read third time and was passed by the following vote:
Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1135 ON SECOND READING**

The Presiding Officer laid before the Senate C.S.S.B. 1135 on second reading. The bill was read second time, Floor Amendment No. 1 was adopted, and further consideration was left pending on Wednesday, May 3, 1995.

C.S.S.B. 1135, Relating to the Commission on Law Enforcement Officer Standards and Education.

Question—Shall C.S.S.B. 1135 be passed to engrossment?

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 1135 as follows:

Add a new SECTION appropriately numbered to read as follows:

SECTION ____ . Section 415.052 is amended by adding a new subsection (d) to read as follows:

(d) Notwithstanding subsection (c), if a permanent license was issued before January 1981 to an honorably retired commissioned officer of the Department of Public Safety who is a special ranger under 411.023 or a retired state employee and the license was current on January 1, 1995, the holder of the license shall have the same rights and privileges as any other peace officer of this state and the license shall be considered active unless revoked, suspended or probated by the commission for a violation of a provision of this chapter other than Section 415.034, which shall not apply to the holder of such license.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1135 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1135 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 1115 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1115, Relating to authorizing the General Services Commission to purchase certain real property on behalf of the state.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1115 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1115** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1453 ON SECOND READING

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1453, Relating to the electronic availability of legislative information through the Internet.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1453 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1453** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

GUEST PRESENTED

Senator Barrientos, joined by Senator Armbrister, was recognized and introduced to the Senate Hays County Judge Eddy Etheredge.

The Senate welcomed Judge Etheredge.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Bivins submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be a Member of the TEXAS NATURAL RESOURCE CONSERVATION COMMISSION: R. B. "Ralph" Marquez, Galveston County.

To be Members of the TEXAS WATER DEVELOPMENT BOARD: Dr. Elaine Mowinski Barron, El Paso County; Charles L. Geren, Tarrant County; Lynwood Sanders, Orange County.

To be a Member of THE FINANCE COMMISSION OF TEXAS:
Steven C. Hastings, Tarrant County.

To be Members of the NUECES RIVER AUTHORITY BOARD OF DIRECTORS: Margaret Bowman, Kinney County; Cleo Bustamante, Jr., Dimmit County; Thomas R. Faulkenberry, Kinney County; George A. Finley III, Nueces County; Lucinda J. Garcia, Jim Wells County; Robert D. Johanson, Live Oak County; Susan Allen Lynch, Uvalde County; Mary Melissa Ramos, Wilson County; Celina Solis, Duval County; Patricia H. Sugarek, Bee County; Paula S. Waddle, Nueces County; Janna Whatley Williams, San Patricio County; Alfredo Zamora, Jr., La Salle County.

To be Members of the TEXAS COMMITTEE ON PURCHASES OF PRODUCTS AND SERVICES OF BLIND AND SEVERELY DISABLED PERSONS: Karen Allison, Travis County; Pamela J. Daggett, Travis County; Lewis Leon Evans, Montgomery County; Sue Evans, Williamson County; Patricia Krall Martin, Travis County; Hollis F. Pinyan, Smith County; R. Wayne Sanders, Travis County; Leticia M. Turner, Harris County.

To be a Member of the TEXAS WOMAN'S UNIVERSITY BOARD OF REGENTS: Nan Hutchins Bailey, Smith County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Bivins gave notice that he would tomorrow, at the conclusion of morning call, submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

COMMITTEE SUBSTITUTE SENATE BILL 7 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 7, Relating to the family, including the marriage relationship, the parent-child relationship, suits affecting the parent-child relationship, and the protection of children.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 7 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 7** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 357 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 357, Relating to the authority of certain law enforcement agencies to establish a checkpoint on a street or highway to determine whether persons are driving while intoxicated.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 357**, in SECTION 1 of the bill, at the end of proposed Section 3, Article 67011-8, Revised Statutes, by adding the following:

Sec. 4. VISUAL RECORDING OF SOBRIETY CHECKPOINTS. (a) A law enforcement agency that operates a sobriety checkpoint shall visually record the operation of the checkpoint. The visual recording must display the day, date, and time that the recording was made.

(b) The law enforcement agency shall retain each recording of the operation of a checkpoint until at least the first anniversary of the operation of that checkpoint.

(c) No later than the third working day of each month, a law enforcement agency shall report the operation of each checkpoint during the preceding month to the traffic safety section of the traffic operations division of the Texas Department of Transportation at its offices in Austin.

(d) The traffic operations division is entitled to:

(1) view each visual recording of the operation of a checkpoint made by a law enforcement agency under Subsection (a); and

(2) inspect any information in the possession of the law enforcement agency that relates to the operation of a sobriety checkpoint by the agency.

(e) No later than January 31, 1997, the traffic operations division shall submit a report on the effectiveness of sobriety checkpoints operated under this article in this state to the governor, the lieutenant governor, and the speaker of the house of representatives. This subsection expires February 1, 1997.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 357 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 357** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Henderson.

The bill was read third time and was passed by the following vote:
Yeas 30, Nays 1. (Same as previous roll call)

GUEST PRESENTED

The President introduced to the Senate Mrs. Betty Bivins, mother of Senator Bivins.

The Senate welcomed Mrs. Bivins.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

H.C.R. 191

H.C.R. 65

H.B. 462

H.B. 44

COMMITTEE SUBSTITUTE SENATE BILL 1240 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1240, Relating to mediated settlement agreements.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1240 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1240** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote:
Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Sims was recognized and introduced to the Senate a group of students and their teacher from Marble Falls High School.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE SENATE BILL 853 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 853, Relating to the penalty for an offense involving the operation of a motor vehicle, an aircraft, or a watercraft while intoxicated and while a child is present.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 853 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 853** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 793 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 793, Relating to the enforcement of certain child support and medical support obligations; appropriating certain federal funds.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 793 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 793** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 840 ON SECOND READING**

Senator Brown moved to suspend the regular order of business to take up for consideration at this time: .

C.S.S.B. 840, Relating to the creation of an offense for the possession of certain weapons in a school zone and to places where weapons are prohibited.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Harris.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Harris asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

(Senator Harris in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 840 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 840 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Harris.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rossen, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Galloway, Harris.

SENATE RESOLUTION 879

Senator Barrientos offered the following resolution:

WHEREAS, Texas is a state that is known throughout the world as a place where great ideas are born; and

WHEREAS, The citizens of Texas have always been pioneers and ingenious inventors; and

WHEREAS, The citizens of Texas have always united for a common cause; and

WHEREAS, Organizations have answered the call to action by finding solutions for the problems facing Texas families in every community; and

WHEREAS, The Corporate Fund for Children recognizes the achievements of these organizations; and

WHEREAS, The list of organizations includes: Aldine Y.O.U.T.H. (Youth Organization United to Help), Houston; Alternative Learning Program Center, Baytown; Amarillo College Inclusive Child Care Project, Amarillo; Amistades (Friendships), San Antonio; Apartment Residents' Association of Stella Link, Houston; Arlington Independent School District Homeless Program, Arlington; Avance School Based Family Support and Education Program, San Antonio; Ballenger Head Start Center, Lubbock; Bea's Kids, Carrollton; Bexar County Masters Gardners, San Antonio; Buckner Care Nurturing Program, Lubbock; Canyon After School Program, Incorporated, Canyon; CASA of El Paso, El Paso; Child Development Associate Credential Certificate of Completion, El Paso; Child, Adolescent and Family Services for Central Texas Counties MHMR, Temple;

Children's Association for Maximum Potential, San Antonio; Coakley Proud, Harlingen; Communities in Schools-Central Texas, Incorporated, Austin; Connections Program for Homeless Children & Youth Northside Independent School District, San Antonio; Corporate Child Care Collaborative of San Antonio; Corpus Christi Housing Authority Youth Programs, Corpus Christi; D.A.R.E. P.L.U.S., Wharton; Dalhart Area Child Care Center, Incorporated, Dalhart; DCSSA/DePaul Family Program, San Antonio; Dove Springs Outreach Program, Austin; Drug Free Schools & Communities, Laredo; Eagle Pass Independent School District Pregnancy, Education & Parenting Program; Even Start Family Literacy Program, Schertz; Family Learning Center of the Austin Housing Authority, Austin; Family Services Association of San Antonio, Incorporated—Families and Schools Together (FAST), San Antonio; Galveston County Coalition on Immunization, Galveston; Greater Calvary Rites of Passage, Austin; Harrison County Christian Community Health, Incorporated, Marshall; Hays-Caldwell Nurturing Program, San Marcos; Healthy and Fair Start Program for Families in Southeast Austin; Healthy Families San Angelo; Healthy Haggard Babies, Robstown; Hermann Respite House, Houston; Hill Country Family Services, Boerne; Hitchcock Independent School District After School Program, Hitchcock; Home Instruction Program (HIP), Laredo; JOVEN (Juvenile Outreach and Vocational-Educational Network), San Antonio; Killeen Independent School District Parent/Community Involvement, Killeen; Kiosco School Based Mental Health Clinic, Dallas; KLNRN Teen-Parent-Tie, San Antonio; Kyle Family Learning and Career Center, Kyle; Lackland Gateway Youth Camp, Lackland Air Force Base; McLennan County Youth Collaboration, Waco; Minority AIDS Education Program Planned Parenthood Association of Hidalgo County, McAllen; New Beginnings, Bryan; NHIC STAR Health Plan, Texas City; Oasis Intergenerational Tutoring Program, San Antonio; Parent Case Management Program, San Angelo and Amarillo; Parent Partners, Midland; Parent Services Center, Incorporated, Tyler; Paths to Prevention, Austin; Pharr-San Juan-Alamo Independent School District Even Start Program, Alamo; Practical Parent Education, Plano; Project ARISE, Pharr; Project Step up/Even Start, Beaumont; Rainbow Days, Incorporated, Dallas; Rural Youth Treatment for Substance Abuse, Alice; Safe Home Outreach (SHOR), Dallas; Saturday Scholars, Bedford; Southwest Educational Development Lab Infant Toddler Caregiving Training Center, Austin/South Texas; Southwest Independent School District Mentoring Partnership Program, Kelly Air Force Base; Saint Simon Latch Key Program, Dallas; Step up to Success, Austin Hispanic Chamber of Commerce; Straight Talk Hotline, Bryan; Success by Six, Houston; Teddy Bear Time, Round Rock; Teens as Parents and Students, Huntsville; Texas STEP, San Marcos; Texas Tots, Statewide; The Boarder Association for Refugees from Central America, McAllen; The Greater Austin Graffiti Wipeout Program, Austin; The Junior Senior Alliance for the Environment, Austin; The Wichita Foundation for Children's Services, Incorporated, Wichita Falls; Uniting Parents, Amarillo; Volunteers in Paternity, Statewide; Where We are Alive With Learning! Walnut Creek Elementary School, Austin; Wichita Falls

YMCA Child Care, Wichita Falls; Wilbarger County Resource Organization, Vernon; Women and Children's Resource Center, Incorporated, San Antonio; and YWCA Young Parents Program, Corpus Christi; and

WHEREAS, The Best of Texas Conference honors these efforts; now, therefore be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby recognize the Best of Texas Programs of 1995 as exemplary community agencies and programs because of their efforts on behalf of Texas children and families; and, be it further

RESOLVED, That the Texas Senate encourage members of the public and private sectors in government organizations, volunteer organizations, and businesses, to honor and celebrate the achievements of the 1995 Best of Texas Programs.

The resolution was again read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was previously adopted on Monday, May 1, 1995.

SENATE RESOLUTION 889

Senator Barrientos offered the following resolution:

S.R. 889, Welcoming actress Jenny Gago to Austin for the premier of her film *My Family/Mi Familia*.

The resolution was again read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was previously adopted on Tuesday, May 2, 1995.

GUEST PRESENTED

Senator Barrientos was recognized and introduced to the Senate actress Jenny Gago. Ms. Gago is also here in support of the Corporate Fund for Children Best of Texas event.

The Senate welcomed Ms. Gago.

COMMITTEE SUBSTITUTE SENATE BILL 667 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 667, Relating to the disclosure of health and mental health care information by certain providers of health care or mental health care.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 667 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 667** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 392 ON SECOND READING

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 392, Relating to contingency longevity pay for Texas Youth Commission employees in hazardous duty positions.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 392 ON THIRD READING

Senator Turner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 392** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 977 ON SECOND READING**

On motion of Senator Ratliff, on behalf of Senator Sims, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 977, Relating to the beneficial land application of biosolids.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 977** as follows:

(1) In Section 374.005(c), change "not later than the 10th day" to "not later than the 40th day"; and

(2) In Section 374.013(c), change "pollutants listed in Subsection (b)" to "pollutants listed in Section 374.058(a)".

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 977 ON THIRD READING**

Senator Ratliff, on behalf of Senator Sims, moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 977 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Brown and Zaffirini asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator Armbrister in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1301 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1301, Relating to physician licensing, including the notice and late fee requirements for the annual registration of physician licenses, the temporary licensure of certain out-of-state physicians, and the licensure of certain international medical graduates.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 1301 as follows:

Add a new SECTION 6 to read as follows:

SECTION 6. Section 1.03(A) Medical Practice Act, Article 4495b, Texas Civil Statutes, is amended by adding subdivision (17) to read as follows;

(17) "Doctor of osteopathy" and "doctor of osteopathic medicine" include a doctor of osteopathic medicine, doctor of osteopathy, osteopath, osteopathic physician, and osteopathic surgeon.

Renumber the following sections as necessary.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Ratliff, Rosson, Shapiro, Sims, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Haywood, Sibley, Wentworth.

Absent: Harris, Luna, Patterson.

**COMMITTEE SUBSTITUTE
SENATE BILL 1301 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.B. 1301 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sims, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Haywood, Sibley, Wentworth.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

MESSAGE FROM THE HOUSE

House Chamber
May 4, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 28, Relating to responsibility for, and recovery of, damages in certain civil actions. (As amended)

S.B. 31, Relating to the assessment of attorney's fees, costs, and damages for certain frivolous lawsuits and defenses. (As amended)

S.B. 32, Relating to venue for civil actions. (As amended)

S.B. 365, Relating to the continuation and functions of the Texas Historical Commission and to the abolition of the Antiquities Committee and the transfer of the committee's functions to the commission. (As substituted and amended)

S.B. 368, Relating to the continuation and functions of the Equine Research Account Advisory Committee.

S.B. 409, Relating to the accounting treatment of premium and discount associated with the purchase of certain securities for the permanent school fund. (As substituted)

S.B. 410, Relating to the delay of certain payments or transfers from the general revenue fund.

S.B. 1126, Relating to the modification of an existing facility under the Texas Clean Air Act. (As amended)

S.B. 1032, Relating to encumbrances that may be fixed on homestead property. (As amended)

S.B. 1125, Relating to the renewal, amendment, or modification of certain emissions permits. (As amended)

H.B. 1537, Relating to the calculation of the effective tax rate for taxing units.

H.B. 2189, Relating to the operation and management of certain conservation and reclamation districts.

H.B. 3179, Relating to the creation, administration, powers, duties, operation, and financing of the Clear Creek Watershed Regional Flood Control District, granting the power of eminent domain, authorizing the issuance of bonds, providing for the levy, assessment, and collection of ad valorem taxes, and providing for a civil penalty.

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
SENATE BILL 1026 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1026, Relating to certain bonds executed by sureties.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1026 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1026** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 1500 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1500, Relating to the transportation and disposal of low-level radioactive waste.

The bill was read second time.

Senator Montford offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 1500** as follows:

By deleting SECTION 1 of the bill and renumbering SECTION 2 as SECTION 1.

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1500 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1500** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 1395 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1395, Relating to authorizing agreements affecting annexation between certain political subdivisions of the state.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 1395** as follows:

On page 1, line 19 between the words "The" and "limits" insert the word "distance".

On page 1, beginning on line 21, delete the last sentence of proposed Section 42.048(a) and add the following:

"A municipality may not transfer territory in a utility district created under Chapter 51 or 54 of the Water Code unless the transfer results in the district being entirely within the jurisdiction of the extraterritorial jurisdiction of one municipality, or transfer is authorized under Section 42.024 of this code and involves a district in the extraterritorial jurisdiction of more than two municipalities on the effective date of this section."

On page 3 add a new paragraph (4) to proposed Subsection 43.0751(f) to read as follows and renumber subsequent subsections:

"(4) annexation of any commercial property in a district for full purposes by the municipality, notwithstanding any other provision of this code or the Water Code, except for the obligation of the municipality to provide, directly or through agreement with other units of government, full provision of municipal services to annexed territory, in lieu of any annexation of residential property or payment of any fee on residential property in lieu of annexation of residential property in the district authorized by this subsection."

On page 4, line 40, strike the word "the" and insert the word "any".

On page 4, line 41, after the word "place" add the following:
"whichever is later"

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1395 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1395 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

SENATE BILL 1232 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1232, Relating to a motor vehicle self-insurance program for volunteer fire departments.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 1232**, SECTION 1, subsection 4.(b), page 2, line 24, by adding after the "." the following:

The coverage must be subject to a maximum limit of \$100,000 for damages for bodily injury, death, or property damage arising out of a single occurrence.

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1232 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1232** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 677 ON SECOND READING

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 677, Relating to the validity of certain documents to which certain notaries public fail to attach an official seal.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 677** by striking SECTIONS 4 and 5 of the bill and substituting the following:

SECTION 4. Section 406.004, Government Code, is amended to read as follows:

Sec. 406.004. ELIGIBILITY ~~[RESIDENCE AND AGE]~~. Each person appointed and commissioned as a notary public shall be at least 18 years of age and a resident of the State of Texas and must not have been convicted of a felony or crime involving moral turpitude ~~[To be eligible for appointment as a notary public an individual must be a resident of this state and at least 18 years old]~~.

SECTION 5. Section 406.005, Government Code, is amended to read as follows:

Sec. 406.005. APPOINTMENT PROCEDURE—STATEMENT ~~[APPLICATION]~~. (a) Each person to be appointed a notary public shall submit an application ~~[To be appointed a notary public an individual must apply]~~ to the secretary of state on a form prescribed by the secretary of state. The application must satisfy the secretary of state that the applicant is qualified. The application must ~~[state that the applicant has never been convicted of a crime involving moral turpitude and must also]~~ state:

- (1) the applicant's name to be used in acting as a notary public;
- (2) the applicant's post office address;
- (3) the applicant's county of residence;
- (4) the applicant's date of birth ~~[business address]~~;
- (5) the applicant's driver's license number or the number of other official state-issued identification ~~[county in which the applicant's business is located]~~; and
- (6) the applicant's social security number.

(b) The applicant shall also execute the statement of officers as required by Section 1, Article XVI, Texas Constitution ~~[secretary of state shall act on an application at the earliest practicable time and notify the applicant whether an appointment has been made]~~.

(c) The statement shall be signed and sworn to or affirmed by the applicant in the presence of a notary public or other person authorized to administer oaths in this state.

SECTION 6. Section 406.006, Government Code, is amended to read as follows:

Sec. 406.006. QUALIFICATION[; REAPPLICATION]. An individual qualifies by:

- (1) properly completing the application form;
- (2) executing the statement;
- (3) providing the bond;
- (4) paying the required filing fees; and
- (5) meeting the eligibility requirements

~~[(a) On receiving notice of appointment, the applicant must, not later than the 30th day after the date of appointment, qualify as provided by this subchapter. If the applicant does not qualify within that period, the appointment is void.~~

~~[(b) An individual qualifies by:~~

~~[(1) taking the official oath and providing the bond required by Section 406.010; and~~

~~[(2) paying the fees required by Section 406.007.~~

~~[(c) An individual whose appointment becomes void under Subsection (a) must reapply to be appointed].~~

SECTION 7. Subsection (a), Section 406.008, Government Code, is amended to read as follows:

(a) Immediately after the qualification of a notary public, the secretary of state shall send notice of appointment along with [issue] a commission to the notary public. The commission is effective as of the date of qualification.

SECTION 8. Subsection (d), Section 406.009, Government Code, is amended to read as follows:

(d) In this section, "good cause" includes:

- (1) a final conviction for a crime involving moral turpitude;
- (2) a false statement knowingly made in an application;
- (3) the failure to comply with Section 406.017;
- (4) a final conviction for a violation of a law concerning the regulation of the conduct of notaries public in this or another state; ~~[and]~~
- (5) the imposition on the notary public of an administrative, criminal, or civil penalty for a violation of a law or rule prescribing the duties of a notary public; ~~or~~
- (6) performing any notarization when the person for whom the notarization is performed did not personally appear before the notary at the time the notarization was executed.

SECTION 9. Section 406.009, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The dismissal and discharge of proceedings under either the misdemeanor adult probation and supervision law or the adult probation, parole, and mandatory supervision law shall not be considered a conviction for the purposes of determining good cause.

SECTION 10. Section 406.010, Government Code, is amended to read as follows:

Sec. 406.010. BOND; OATH. (a) Each person to be ~~[An individual]~~ appointed a notary public shall, before entering the official duties of office, execute a bond in the amount of \$5,000 ~~[\$2,500]~~ with a solvent surety

company authorized to do business in this state as a surety. The bond must be approved by the secretary of state, payable to the governor, and conditioned on the faithful performance of the duties of office. The secretary of state has the authority to accept an electronic filing of the notary public bond if an agreement has been made with the surety company.

~~(b) [The individual shall take the official oath of office and subscribe the individual's name and social security number to the oath. The oath and the certificate of the official administering the oath must be endorsed on the notary bond.]~~

~~[(c)]~~ The notary bond shall be deposited in the office of the secretary of state, is not void on first recovery, and may be sued on in the name of the injured party from time to time until the whole amount of the bond is recovered.

(c) A notary public, before entering on the duties of office, shall take the official oath required by Section 1, Article XVI, Texas Constitution.

(d) The oath shall be signed and sworn to or affirmed by the notary public in the presence of a notary public or other person authorized to administer oaths in this state. A notary public cannot execute his or her own oath of office [State Board of Insurance may approve rates for a four-year notary bond issued after January 1, 1980, equivalent to twice the rate set previously for two-year notary bonds].

(e) The secretary of state shall provide an oath of office form along with the commission and educational materials.

SECTION 11. Section 406.011, Government Code, is amended to read as follows:

Sec. 406.011. REAPPOINTMENT [EXPIRING TERM]. (a) Not earlier than 90 days prior to the expiration date of the notary's term, a notary public may apply for reappointment on submission of a new application to the secretary of state [later than the 90th day before the date on which a qualified notary public's term expires, the secretary of state shall send the notary public an application for reappointment, a notary bond, and an oath of office].

~~(b) [On receiving the properly executed application for reappointment, notary bond, oath of office, and statutory fees, the secretary of state shall issue a commission to the notary public for another term of office unless the notary public has been convicted of a felony or a crime involving moral turpitude during the term of office.]~~

~~[(c)]~~ A notary public who is not reappointed on or before the expiration date of the term the notary public is serving will be appointed for a new term expiring four years from the date of qualification [must apply for appointment in the manner provided by Section 406.005].

SECTION 12. Subchapter A, Chapter 406, Government Code, is amended by adding Section 406.025 to read as follows:

Sec. 406.025. SIGNATURE ON COMMISSIONS AFTER CHANGE IN OFFICE. If the governor or secretary of state ceases to hold or perform the duties of office, existing stocks of commissions bearing the person's

printed name, signature, or facsimile signature may be used until they are exhausted, and the person succeeding to the office or the duties of the office shall have the commissions issued with:

(1) the obsolete printed name, signature, or facsimile signature struck through;

(2) the successor's printed name submitted for the obsolete printed name, signature, or facsimile signature; and

(3) the inscription "Printed name authorized by law" near the successor's printed name.

SECTION 13. Subsection (c), Section 406.008, Government Code, is repealed.

SECTION 14. (a) Sections 1-3 of this Act take effect on the earliest day allowed under Section 39, Article III, Texas Constitution.

(b) Sections 1-3 of this Act apply to the validity of an instrument on or after the effective date of those sections, without regard to whether:

(1) the instrument was created before, on, or after the effective date of those sections; or

(2) an action taken by a notary public in relation to the instrument occurred before, on, or after that date.

(c) Sections 4-13 of this Act take effect January 1, 1996.

(d) Sections 4-13 of this Act apply only to a person applying to be appointed a notary or a person appointed or reappointed as a notary on or after January 1, 1996. A person who applied to be appointed a notary or who was appointed or reappointed as a notary before January 1, 1996, is governed by the law applicable immediately before January 1, 1996, and that law is continued in effect for that purpose.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Gallegos asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 677 ON THIRD READING

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 677 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on State Affairs might consider the following bills and resolution today:

S.B. 1681
S.B. 1701
S.C.R. 127
S.B. 411

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

H.B. 2151 to Committee on State Affairs.

H.B. 2599 to Committee on State Affairs.

SENATE BILL 1687 ON SECOND READING

Senator Henderson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 1687, Relating to the creation of certain judicial districts and to the offices of district attorney of certain judicial districts.

There was objection.

Senator Henderson then moved to suspend the regular order of business and take up **S.B. 1687** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Turner, Wentworth, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Truan, West, Whitmire.

The bill was read second time.

Senator Henderson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 1687** as filed by making the following deletions and renumbering the remaining sections accordingly:

Page 3, delete the language on lines 14 and 15

SECTION 4.01 entirely

SECTION 4.02 entirely

SECTION 4.03 entirely

SECTION 4.04 entirely

SECTION 4.05 entirely

SECTION 4.06 entirely

SECTION 4.07 entirely

SECTION 5.01, delete only the reference to the 386th judicial district

The committee amendment was read and was adopted by a viva voce vote.

Senator Henderson offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend S.B. 1687 as filed as follows:

(1) Insert the following new SECTION where appropriate and renumber the existing SECTIONS accordingly:

SECTION _____. Effective September 1, 1995, Subchapter C, Chapter 24, Government Code, is amended by adding Sections 24.545, 24.546, 24.547, 24.548, 24.549, and 24.552, to read as follows:

Sec. 24.545. 400TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 400th Judicial District is composed of Bexar County.

(b) The 400th District Court shall give preference to criminal cases.

Sec. 24.546. 401ST JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 401st Judicial District is composed of Bexar County.

(b) The 401st District Court shall give preference to civil cases.

Sec. 24.547. 402ND JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 402nd Judicial District is composed of Bexar County.

(b) The 402nd District Court shall give preference to civil cases.

Sec. 24.548. 403RD JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 403rd Judicial District is composed of Bexar County.

(b) The 403rd District Court shall give preference to proceedings under Title 3, Family Code.

Sec. 24.549. 404TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 404th Judicial District is composed of Bexar County.

(b) The 404th District Court shall give preference to proceedings under Title 4, Family Code.

Sec. 24.552. 407TH JUDICIAL DISTRICT (EL PASO COUNTY). The 407th Judicial District is composed of El Paso County.

(2) Amend SECTION 5.01 as filed, to read as follows:

SECTION _____. The 378th, 379th, 381st, 382nd, 383rd, 384th, 400th, 401st, 402nd, 403rd, 404th, and 407th judicial districts are created September 1st, 1995.

The committee amendment was read and was adopted by a viva voce vote.

Senator Henderson offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend S.B. 1687 as filed as follows:

(1) Add the following appropriately numbered sections in an appropriate place:

SECTION . Section 43.106(a), Government Code, is amended to read as follows:

(a) The voters of [~~Grimes;~~] Madison[;] and Leon counties elect a district attorney for the 12th Judicial District who represents the state in that district court only in those counties.

SECTION . Subchapter B, Chapter 43, Government Code, is amended by adding Section 43.1745 to read as follows:

Sec. 43.1745. 278TH JUDICIAL DISTRICT. (a) The voters of Grimes County elect a district attorney for the 278th Judicial District who represents the state only in that county.

(b) The district attorney shall attend each term and session of the district courts and all other courts, except municipal courts, in Grimes County and, unless otherwise provided by law, shall exclusively represent the state in all criminal matters in those courts.

(c) The district attorney has no power, duty, or privilege relating to family law and juvenile matters, including matters involving children's protective services, protective orders under Chapter 71, Family Code, orders under Chapter 21, Family Code, proceedings under Title 3, Family Code, civil commitment matters under Subtitle C, Title 7, Health and Safety Code, or a quo warranto or removal case, except, that if the county attorney fails or refuses to act in a quo warranto or removal case, the district attorney has the power, duty, and privilege to bring a removal or quo warranto action.

(d) The district attorney has no power, duty, or privilege in any civil matter pending before any court.

(e) The district attorney must be at least 30 years of age, must have been a practicing attorney in this state for at least five years, and must have been a resident of Grimes County for at least three years immediately preceding election or appointment.

(f) The district attorney may not engage in the private practice of law.

(g) The district attorney may, for the purpose of conducting the affairs of the office, appoint assistant district attorneys, investigators, and other necessary staff. The salaries of the members of the staff of the district attorney's office shall be paid from the officer's salary fund of the county with the approval of the commissioners court.

SECTION . Subchapter B, Chapter 45, Government Code, is amended by adding Section 45.193 to read as follows:

Sec. 45.193. GRIMES COUNTY. (a) The county attorney of Grimes County shall represent the state, Grimes County, and the officials of the county in all civil matters pending before the courts of Grimes County and any other court.

(b) The county attorney has the powers, duties, and privileges in Grimes County relating to civil commitment matters under Subtitle C, Title 7, Health and Safety Code, family law and juvenile matters, including children's protective services matters, protective orders under Chapter 71, Family Code, orders under Chapter 21, Family Code, and proceedings under Title 3, Family Code.

(c) Except as provided by Section 43.1745, the county attorney has all the powers, duties, and privileges in Grimes County relating to quo warranto and proceedings for removal from office.

(d) The county attorney has no power, duty, or privilege in Grimes County relating to criminal matters, including asset forfeitures under Chapter 59, Code of Criminal Procedure, appearance bond forfeitures under Chapter 17, Code of Criminal Procedure, and habeas corpus related to criminal matters.

SECTION . Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies only to the following prosecutors:

(1) the district attorneys for the 2nd, 8th, 9th, 12th, 18th, 21st, 22nd, 23rd, 26th, 27th, 29th, 34th, 35th, 36th, 38th, 43rd, 47th, 49th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 84th, 85th, 90th, 97th, 105th, 106th, 110th, 118th, 119th, 123rd, 142nd, 145th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 266th, 268th, 271st, 278th, 286th, 349th, and 355th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Deaf Smith, Denton, Eastland, Galveston, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Ellis, Falls, Fannin, Freestone, Grayson, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Red River, Robertson, Rusk, Terry, Webb, and Willacy.

SECTION . Notwithstanding Section 41.010, Government Code, the initial vacancy in the office of district attorney for the 278th Judicial District on creation of the office shall be filled by election. The office of district attorney for the 278th Judicial District exists for purposes of the primary and general elections in 1996. The qualified voters of the county shall elect the initial district attorney for the 278th Judicial District at the general election in 1996 for a four-year term beginning January 1, 1997. Thereafter, the district attorney of the 278th Judicial District shall be elected for a four-year term as provided by Section 65, Article XVI, Texas Constitution. A vacancy after the initial vacancy is filled as provided by Section 12, Article IV, Texas Constitution. This SECTION takes effect September 1, 1995.

SECTION _____. Except as otherwise provided, this Sections ____-____ of this Act take effect January 1, 1997.

The committee amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 1687 as follows:

By striking SECTIONS 3.01 and 3.02 (page 1, line 62 through page 2, line 10, of the committee report).

The amendment was read and was adopted by a viva voce vote.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 2

Amend S.B. 1687 by adding the following sections and renumber accordingly:

SECTION 1. Section 24.195, Government Code, is amended to read as follows:

Sec. 24.195. 93RD JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 93rd Judicial District is composed of Hidalgo County.

(b) The 93rd District Court shall give preference to all cases and proceedings under Title 3, Family Code. The 93rd District Court is a family district court.

(c) The terms of the 93rd District Court begin on the first Mondays in January and July.

(d) [(c)] Section 24.194, relating to the 92nd District Court, contains provisions applicable to both that court and the 93rd District Court.

SECTION 2. Subsection (a), Section 24.209, Government Code, is amended to read as follows:

(a) The 107th Judicial District is composed of Cameron and Willacy counties. The court shall give preference to all [criminal] cases and proceedings under Title 3, Family Code. The 107th District Court is a family district court.

SECTION 3. Subsection (a), Section 24.240, Government Code, is amended to read as follows:

(a) The 138th Judicial District is composed of Cameron and Willacy counties. The court shall give preference to all [criminal] cases and proceedings under the Family Code. The 138th District Court is a family district court.

SECTION 4. Section 24.385, Government Code, is amended to read as follows:

Sec. 24.385. 206TH JUDICIAL DISTRICT (HIDALGO COUNTY).

(a) The 206th Judicial District is composed of Hidalgo County.

(b) The 206th District Court shall give preference to all criminal cases. The 206th District Court is the criminal district court for Hidalgo County.

SECTION 5. Section 24.452, Government Code, is amended to read as follows:

Sec. 24.452. 275TH JUDICIAL DISTRICT (HIDALGO COUNTY).

(a) The 275th Judicial District is composed of Hidalgo County.

(b) The 275th District Court shall give preference to all cases and proceedings under the Family Code. The 275th District Court is a family district court.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Truan asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 2.

Floor Amendment No. 3 was not offered.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 4

Amend S.B. 1687 as follows:

(1) Add an appropriately numbered section to read as follows:

SECTION ____ . This Act takes effect only if the constitutional amendment proposed by the 74th Legislature, Regular Session, 1995, providing for the appointment of appellate justices and judges by the governor with retention elections on a nonpartisan ballot for those justices and judges, for the nonpartisan election and retention or rejection of district judges, for the election of certain district judges from commissioners court precincts, and for the alteration of the terms of certain judicial offices, is approved by the voters. If that constitutional amendment is not approved by the voters, this Act has no effect.

(2) Renumber subsequent sections accordingly.

The amendment was read.

On motion of Senator Ellis and by unanimous consent, Floor Amendment No. 4 was withdrawn.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 5

Amend S.B. 1687 as follows:

(1) Insert the following new SECTION where appropriate and renumber the existing SECTIONS accordingly:

SECTION ____ . Effective September 1, 1995, Subchapter C, Chapter 24, Government Code, is amended by adding Sections 24.553 and 24.554 to read as follows:

Sec. 24.553. 408TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 408th Judicial District is composed of Travis County.

(b) The 408th Judicial District shall give preference to criminal cases.

Sec. 24.554. 409TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 409th Judicial District is composed of Travis County.

(b) The 409th Judicial District shall give preference to criminal cases.

(2) Amend SECTION 5.01 to read as follows:

SECTION ____ . The 378th, 379th, 381st, 382nd, 383rd, 384th, 400th, 401st, 402nd, 403rd, 404th, 407th, 408th, and 409th judicial districts are created January 1, 1997.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Turner, Wentworth, Zaffirini.

Nays: Ellis, Gallegos, Truan, West, Whitmire.

SENATE BILL 1687 ON THIRD READING

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1687** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Turner, Wentworth, Zaffirini.

Nays: Ellis, Gallegos, Truan, West, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

REASON FOR VOTE

Senator Ellis submitted the following reason for vote:

I am opposed to passage of **S.B. 1687** because I believe the Texas Legislature should not create any new courts until it remedies the discrimination in the current judicial election system. Unfortunately, I am not optimistic that the Legislature will act to resolve this problem without some pressure on the system.

The Justice Department's ability to block the creation of new courts until the system is brought into compliance with the Voting Rights Act has the ability to force the Legislature to respond to the problem. In the absence of such pressure, I am afraid the Legislature would continue to try to sweep this problem under the rug. The passage of bills creating new courts in the context of a discriminatory, immoral system could go on endlessly, as lawmakers push forward their local agendas but neglect the statewide problem.

With all due respect to the counties that need these new courts—for whom I would willingly support the creation of new courts in the context of a fair judicial election system—I strongly oppose **S.B. 1687**.

ELLIS

REASON FOR VOTE

Senator Gallegos submitted the following reason for vote:

Until the Legislature responds with some urgency to remedying the current judicial election system, I am opposed to **S.B. 1687**. The Justice Department has made it clear that it is refusing to preclear new elected courts until the system is brought into compliance with the Voting Rights Act.

As a State Senator for a majority Hispanic constituency that must work within a discriminatory judicial system, passing bills that create new courts, without addressing the statewide selection problem, diminishes the seriousness of judicial equity.

I oppose **S.B. 1687** until the Legislature creates a fair judicial election system.

GALLEGOS

REASON FOR VOTE

Senator West submitted the following reason for vote:

I strongly oppose the creation of any new courts in Texas until a judicial selection process is established in this state that provides an equitable opportunity for minority representation in our judiciary. The current system of electing judges severely dilutes the voting strength of minorities and therefore I cannot support the passage of **S.B. 1687**.

If change is to ever occur, the Justice Department must force, not urge, the State of Texas into compliance with the Voting Rights Act. Although I understand the need of certain counties to alleviate crowded court dockets by creating additional courts, the existing disparity in the Texas judiciary transcends the need to create new courts.

I will continue to oppose the creation of any new courts in Texas until a fair judicial election system is established.

WEST

MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 1343 ON SECOND READING

Senator Ellis moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 1343, Relating to the establishment and operation of a healthy start/healthy families program.

The motion was lost by the following vote: Yeas 17, Nays 13. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Barrientos, Cain, Ellis, Gallegos, Lucio, Luna, Madla, Moncrief, Montford, Rosson, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Brown, Galloway, Harris, Haywood, Henderson, Leedom, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley.

Absent: Sims.

CONGRATULATORY RESOLUTIONS

S.R. 911 - By Ratliff: Congratulating Aaron Hegtvædt of Mount Pleasant on achieving the rank of Eagle Scout.

S.R. 912 - By Moncrief: Congratulating Juanita Martinez on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 913 - By Moncrief: Congratulating Bonnie Sudderth on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 914 - By Moncrief: Congratulating Rachel Dunaway Gooch on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 915 - By Moncrief: Congratulating Patsy Thomas on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 916 - By Moncrief: Congratulating Rosa Linda Navejar on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 917 - By Moncrief: Congratulating Suzanne McNeil on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 918 - By Moncrief: Congratulating Libby Watson on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 919 - By Moncrief: Congratulating Harriet Griffin on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 920 - By Moncrief: Congratulating Viola Pitts on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 921 - By Moncrief: Congratulating Sharon Wilson on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 922 - By Moncrief: Congratulating Elaine Agather on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 923 - By Moncrief: Congratulating Shirley Knox-Benton on being named one of the 1996 Outstanding Women of Fort Worth by the Fort Worth Women's Hall of Fame.

S.R. 924 - By Cain: Congratulating Mr. and Mrs. Richard McClain of Caddo Mills on their 40th wedding anniversary.

S.R. 925 - By Cain: Congratulating Ryan Truelove of Mabank on being honored at the Texas Career and Technology Education Awards Program.

S.R. 926 - By Montford: Commending Dealey Herndon of Austin, Executive Director of the State Preservation Board, for her leadership in the Texas Capitol restoration.

S.R. 927 - By Ellis: Congratulating Yvette R. Baldwin on her graduation from Texas Southern University.

ADJOURNMENT

On motion of Senator Leedom, the Senate at 12:53 p.m. adjourned until 9:30 a.m. tomorrow.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

May 3, 1995

INTERGOVERNMENTAL RELATIONS — **S.B. 1676** (Amended), **H.B. 2062** (Amended), **H.B. 3166**, **H.B. 3134**, **H.B. 1818**, **S.B. 1695**, **S.B. 1163**, **H.B. 27**, **H.B. 1531**, **C.S.S.B. 1535**, **C.S.S.B. 1462**, **C.S.S.B. 930**, **C.S.H.B. 3157**

May 4, 1995

ADMINISTRATION — **H.C.R. 81**, **H.C.R. 160**

INTERGOVERNMENTAL RELATIONS — **C.S.S.B. 664**, **C.S.S.B. 1372**, **C.S.S.J.R. 47**

NATURAL RESOURCES — **C.S.S.B. 742**

SIXTY-FIFTH DAY (Friday, May 5, 1995)

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Ellis, Madla.